

APR 13 2005

Attorney Docket No. 13647.0015
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
Marsan et al.

Serial No.: 09/413,728

Filed: 10/06/1999

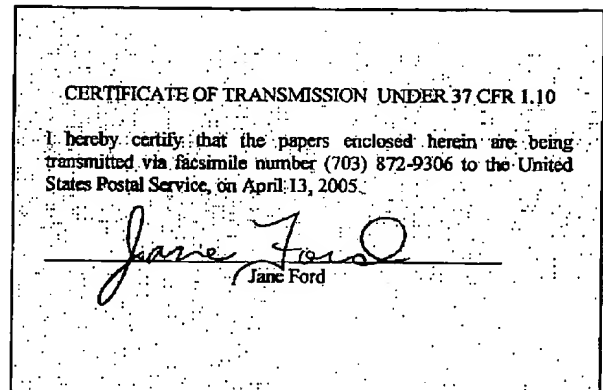
For: System and Method for Processing
Retrieval Requests

Group Art Unit: 3629

Examiner: Igor N. Borissov

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT**
UNDER 37 C.F.R. 1.137(b)

In response to the Notice of Abandonment Mailed January 7, 2005 (Paper No. 20041230), Applicants submitted a Petition to Withdraw Holding of Abandonment under 37 C.F.R. 1.181, and included a copy, in triplicate, of the Appeal Brief in this matter and evidence showing that the U.S. Patent and Trademark Office received the check for the petition fee. Applicants noted that PAIR does not show receipt of the Notice of Appeal that was filed on August 4, 2003, but that the Notice of Appeal is present in the Image File Wrapper. As such, the PTO's own internal records are inconsistent, suggesting that the process of entering this file into the Image File Wrapper system, intentional or unintentional personnel error, or some other problem internal to the PTO is responsible for the failure to place the Appeal Brief in the file for this matter.

Furthermore, enclosed with that petition was a copy of the check that was submitted with the appeal brief, which clearly shows that it was received and cashed by the U.S. Patent and Trademark Office. The Attorney for the Applicants has also received confirmation from the Examiner that this fee was recorded in the PTO records as having been received. While the copies

of the Appeal Brief do not include a signature on the certificate of mailing, this is because a copy of the signed appeal brief was not made prior to filing. Applicants offered to attempt to obtain a signed affidavit from Ms. Kelly Breeze stating that the check for the Appeal Brief would not have been submitted without the Appeal Brief if one was considered to be required, but the Special Programs Examiner that issued the decision on that petition indicated that the only evidence that would be considered by the PTO would be a copy of a certificate of mailing, postcard, express mail label, or other such evidence. Attorney for Applicants has made a diligent search of the files that were transferred from the firm that handled the filing of the petition, and has been unable to locate any such evidence.

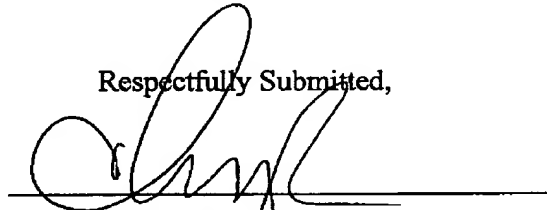
As such, this petition to withdraw the holding of abandonment under 37 C.F.R. 1.137(b) is hereby submitted. The entire delay in filing the required reply from the due date for the reply until the filing of this grantable petition pursuant to 37 C.F.R. 1.137(b) was unintentional. In this regard, the Applicants note that triplicate copies of the petition have been submitted with the previously-submitted petition under 1.181, and if additional copies are required, request that such be requested by the personnel handling this petition. Withdrawal of the Notice of Abandonment is therefore requested.

CONCLUSION

Applicants note that evidence that the PTO has received a petition fee of \$330.00 from the Applicants on October 10, 2003, and Applicants do not believe that such fee has not been refunded or otherwise applied as a credit by the PTO. The Commissioner is hereby authorized to charge the balance of \$170 for the appeal brief filing fee and the petition fee for revival of an unintentionally abandoned application of \$1500 (total \$1670) to the deposit account of Godwin Gruber, LLP, No. 50-0530. If any applicable fee or refund has been overlooked, the Commissioner is hereby authorized to charge any fee or credit any refund to the deposit account of Godwin Gruber, LLP, No. 50-0530.

Respectfully Submitted,

Date: April 13, 2005



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